

DETAILED ACTION

Response to Amendment

1. Applicant's request for continuing (RCE), amendment and accompanying remarks filed 5/21/08 have been fully considered and entered. Claims 12, 19 and 21 have been amended, claims 1-11, 12-14, 17, 23-32 have been canceled and new claims 33-34 have added as requested. Applicant's cancellation of claims 1-11 renders moot the obviousness type rejections set forth in section 3 of the Office Action dated 1/24/08. Applicant's amendments are also found sufficient to overcome the obviousness type rejections of claims 12-14, 17 and 21-22. Specifically, the combination of cited prior art does teach the combination of features set forth in independent claims 12 and 21. However, new claims 33 and 34 are not found patently distinguishable over the prior art made of record and Applicant's arguments are not found persuasive of patentability for reasons set forth herein below.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griesbach, III et al., US 2004/0123939 A1 in view of Morman et al., US 2004/0091752.

The published patent application issued to Griesbach et al., teaches a non-woven film laminate having barrier properties (title and abstract). Said laminate resists penetration by liquids and viruses (abstract). Griesbach et al., teach joining a spun-bonded non-woven layer having a basis weight ranging from 20-60 gsm to a multi-layer film (section 0046, 0064 and 0050). Said fabric layer is made with polyethylene or polypropylene (section 0059). Said multi-

layer film comprises a core layer comprising blends of polypropylenes and two skin layers comprising blends of polyolefins, ethylene acrylic acid etc. (sections 0050-0053). Said film layers have a basis weight less than 20 gsm (section 0074). Griesbach et al., teach positioning the multi-layer film between two outer non-woven layers (section 0046).

With regard to the adhesively laminated limitations, Griesbach et al., teach that it is known in the art to use an adhesive to join the non-woven layer to the film (section 0012). Griesbach et al., does not teach the claimed amount of adhesive, however, it is the position of the Examiner that it would be obvious to one of ordinary skill in the art at the time the invention was made to optimize the amount of dry adhesive as a function of adhesiveness. It has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980)

With regard to the coextruded limitation, Griesbach et al., teach that the multi-layer film is coextruded (section 0070).

Griesbach et al., fails to teach a barrier layer comprising low density polyethylene, however, the patent issued to Morman et al., teach a film comprising either linear low density polyethylene or low density polyethylene (section 0044). Said film is employed in a laminate structure where liquid impermeability properties are desired (abstract). It appears that the polyolefins employed by Griesbach et al., are functionally equivalent to the low density polyethylene polymers of Morman for the desired use of forming an impermeable film.

Therefore, absent unexpected results, it is the position of the Examiner that it would be obvious to one having ordinary skill in the art at the time the invention was made to select a known equivalent polyolefin material as a function of availability, cost of ease of production.

With regard to the limitations pertaining to the high peel strength, improved barrier properties, being ethylene oxide sterilizable and high wet peel strength not being diminished but enhanced on aging of the composite, it is the position of the Examiner that the composite provided by the combination of Griesbach et al., in view of Morman would exhibit the claimed properties. Support for said presumption is found in the use of like materials and processes used to form a composite laminate for the intended barrier purposes. Applicant is invited to claim otherwise.

Allowable Subject Matter

4. The following is a statement of reasons for the indication of allowable subject matter: Claims 12-14, 17 and 21-22.

Independent claims 12 and 21 are found allowable over the prior art made of record. Specifically, the combination of cited prior art fails to teach or suggest the claimed cast film layers consisting of the materials set forth. An updated art search did not produce any new substantial art for which to base a rejection and presently no motivation exists to combine references to form an obviousness type rejection.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M. Salvatore whose telephone number is 571-272-1482. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lynda Salvatore/
Primary Examiner
Art Unit 1794
8/18/08

Serial Number



Application No.

10/535,498

Applicant(s)

DHARMADHIKARY ET AL.

Examiner

LYNDA M. SALVATORE

Art Unit

1794